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Appendix 1 – Entered on June 25, 2021

COMMONWEALTH OF KENTUCKY  
COURT OF APPEALS

NO. 2021-CA-0541-OA

GEOFFREY M. YOUNG                      PETITIONER

ON PETITION FOR WRIT OF MANDAMUS  
v.    ARISING FROM SCOTT CIRCUIT COURT  
      ACTION NO. 20-CI-00609

HONORABLE JEREMY MATTOX, RESPONDENT  
JUDGE, SCOTT CIRCUIT COURT

AND

AMY MCGRATH              REAL PARTY IN INTEREST

ORDER DENYING PETITION FOR WRIT OF  
MANDAMUS AND DENYING REAL PARTY IN  
INTEREST'S REQUEST FOR DAMAGES

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BEFORE: CLAYTON, CHIEF JUDGE; COMBS  
AND JONES, JUDGES.

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This matter comes before the Court on  
Petitioner, Geoffrey M. Young's petition for writ of  
mandamus<sup>1</sup>

[footnote 1: Young's pleading is styled  
as a "Petition for Relief Against Abuses  
of Discretion." Because Young, *pro se*,  
requests the Court to make the Scott  
Circuit Court take certain actions, his  
pleasing is considered a petition for writ  
of mandamus.]

pursuant to Kentucky Rule of Civil Procedure (CR)  
76.36 in which he asks the Court to order the  
Respondent, Honorable Jeremy Mattox, to file  
Young's April 26, 2021 motion for sanctions in Scott  
Circuit Court, to hold a hearing on that motion, and  
to decide that motion "without delay." Young also  
requests the Court to order Respondent "not to  
interfere in the future with the ministerial duties of  
the Clerk of the Scott County Circuit Court." The  
Real Party in Interest, Amy McGrath, filed a

response to Young's petition and requested CR 73.02(4) damages against Young.

In the underlying case, Young filed a petition on September 28, 2020, challenging the ballot status of McGrath in the 2020 election for United States Senate. Young requested an evidentiary hearing, declaratory judgment, and injunctive relief. He contended that McGrath was not a bona fide candidate under Kentucky Revised Statute (KRS) 118.176 and further claimed that McGrath acted unlawfully in gaining the Democratic nomination in violation of KRS 118.105. Young requested McGrath be struck from the ballot and that any votes for McGrath in the November 2020 election not count.

In response, McGrath moved to dismiss, claiming: (1) the doctrine of *res judicata* barred Young's allegations; (2) the statute of limitations

applied; Young failed to state a claim upon which relief may be granted; and (4) the court lacked jurisdiction over the action. McGrath also moved for CR 11 sanctions against Young.

Apparently, Young attempted to file a response to McGrath's motion to dismiss and his own motion for CR 11 sanctions against McGrath and her attorneys, which he noticed to be heard on either either October 20, 21, or 22. However, the circuit court refused to file Young's pleading and returned it to him with a Post-It Note advising him to notice the pleading for November 5, 2020. Thereafter, Young refiled his motion, noticing it for November 5, 2020.

On December 17, 2020, the circuit court entered two orders. First, the circuit court denied Young's motion challenging the ballot status of McGrath and dismissed Young's petition. Second,

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the circuit court denied Young's motion for CR 11 sanctions and granted McGrath's motion for CR 11 sanctions, ordering Young to pay \$25,550.93.

Young filed a motion to vacate the two orders, as well as a motion for a new trial and for CR 11 sanctions against McGrath and her attorneys. On February 18, 2021, the circuit court denied Young's motion to vacate its two orders and denied Young's motion for a new trial and CR 11 sanctions.

On February 23, 2021, Young appealed the circuit court's February 18, 2021 order. The Court docketed that appeal as No. 2021-CA-000228. The Court also received Young's "motion to set aside" the circuit court's orders in the underlying case, which was filed in No. 2021-CA-000228.

Meanwhile, on April 26, 2021, Young attempted to file another motion for CR 11 sanctions

against McGrath and her attorneys in Scott Circuit Court. However, the circuit court returned Young's motion to him, claiming it had no jurisdiction to hear the motion because the underlying case was on appeal. On May 6, 2021, at motion hour, Young attempted to argue his motion for CR 11 sanctions. Young claims the circuit court would not hear his motion and refused to issue a written order for him to appeal.

On May 12, Young filed the instant petition. As stated, Young claims Judge Mattox should be ordered to file his April 26, 2021 motion, hear it, and rule upon it.

The circuit court is correct. Young already filed an appeal of the underlying action (2020-CI-00609), which has been docketed in this Court at No. 2021-CA-000228. While Young may not like the fact

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that the Scott Circuit Court refused to accept his April 26, 2021 motion, that was appropriate because, once Young appealed the underlying action, the circuit court lost jurisdiction of that case. *See Young v. Richardson*, 267 S.W.3d 690 (Ky. App. 2008), *as modified on denial of reh'g* (Oct. 3, 2008) (generally, the filing of a notice of appeal divests the circuit court of jurisdiction to rule on matters involved in the appeal while the appeal is pending).

Moreover, seeking the Court's intervention through a petition for a writ of mandamus is not appropriate in this situation. A writ of mandamus is extraordinary in nature. As the Kentucky Supreme Court warned in *Cox v. Braden*, 266 S.W.3d 792, 795 (Ky. 2008):

Such a writ bypasses the regular appellate process and requires significant interference with the lower

courts' administration of justice. The expedited nature of writ proceedings necessitates an abbreviated record. This magnifies the chance of incorrect rulings that would prematurely and improperly cut off the rights of litigants, if the process were not strictly scrutinized for appropriateness. As such, the specter of injustice always hovers over writ proceedings, which explains why courts of this Commonwealth are – and should be – loath to grant the extraordinary writs unless absolutely necessary.

To facilitate this policy of limiting the extraordinary writs to truly extraordinary situations, petitioners are required to satisfy one of two tests to determine whether the remedy of a writ is even available. Those tests, which break down into two distinct classes, are:

A writ of prohibition *may* be granted upon a showing that (1) the lower court is proceeding or is about to proceed outside of its jurisdiction and there is no remedy through an application to an intermediate court; or (2) that the lower



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court is acting or is about to act erroneously, although within its jurisdiction, and there exists no adequate remedy by appeal or otherwise and great injustice and irreparable injury will result if the petition is not granted.

*Hoskins v. Maricle*, 150 S.W.3d 1, 10 (Ky. 2004).

The first class of writs focuses on the lower court's jurisdiction, or its authority to address the matter before it. *State Farm Ins. Co. v. Edwards*, 339 S.W.3d 456, 459 (Ky. 2011). Because “the jurisdiction of each level of court is clearly established, either by the Constitution, statute, or rule, petitions alleging this ground are resolved by legal interpretation of the provisions granting jurisdiction.” *Cox*, 266 S.W.3d at 796.

The second class of writs applies where the lower court has jurisdiction but may be about to proceed erroneously. Writs are available in those

cases when there is no remedy by appeal, and great injustice and irreparable injury will result from the lower court proceeding.

Here, the circuit court had subject matter jurisdiction over the controversy at issue, so the first class of writs does not apply. *See Lee v. George*, 369 S.W.3d 29, 33 (Ky. 2012); *Nordike v. Nordike*, 231 S.W.3d 733, 737-38 (Ky. 2007). Thus, we look to the second class.

Under the second class, Young must satisfy that no adequate remedy by appeal exists and that great injustice and irreparable injury will result if the writ is not granted. *Cox*, 266 S.W.3d at 796.

“Lack of an adequate remedy by appeal is an absolute prerequisite to the issuance of a writ” of the second class. *Independent Order of Foresters v. Chauvin*, 175 S.W.3d 610, 615 (Ky. 2005) (citing

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*Bender v. Eaton*, 343 S.W.2d 799, 801 (Ky. 1961)).

Here, Young already appealed the underlying action.

Thus, the second class does not apply and Young has no basis for extraordinary relief through a petition for a writ. *Hoskins*, 150 S.W.3d at 10.

Next, we address McGrath's request for CR 73.02(4) damages incurred in opposing Young's petition. Under 73.02(4), in determining whether an appeal or motion is frivolous and warrants an award of damages, the court must find that the appeal or motion "is so totally lacking in merit that it appears to have been taken in bad faith." Young's petition complains that the clerk refused to file his motion, which he argues is contrary to the clerk's duty. Although Young's petition is based on an erroneous view of the law and his mistaken belief that the clerk must file whatever motion he proffers and provide

him a hearing, we are mindful that Young is a *pro se* litigant and not an attorney. *See Leasor v. Redmon*, 734 S.W.2d 462, 464 (Ky. 1987). Accordingly, the Court denies McGrath's CR 73.02(4) request for damages in this specific matter.

For the foregoing reasons, having considered the petition, response, and being otherwise sufficiently advised, the Court ORDERS that Petitioner's "petition for relief against abuses of discretion" is hereby DENIED. Also, the Real Party in Interest's request for CR 73.02(4) damages is DENIED.

ENTERED: JUN 25 2021

(signed) Denise G. Clayton  
CHIEF JUDGE, COURT OF APPEALS

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Appendix 2 – Entered on March 24, 2022

RENDERED: MARCH 24, 2022  
NOT TO BE PUBLISHED

Supreme Court of Kentucky

2021-SC-0258-MR  
2021-SC-0269-MR

GEOFFREY M. YOUNG                      APPELLANT

ON APPEAL FROM COURT OF APPEALS  
V.                      NO. 2021-CA-0541  
SCOTT CIRCUIT COURT NO. 20-CI-00609

HONORABLE JEREMY MATTOX,                      APPELLEE  
SCOTT CIRCUIT COURT, JUDGE

AND

AMY MCGRATH                      REAL PARTY IN INTEREST

MEMORANDUM OPINION OF THE COURT

AFFIRMING

This case is an appeal of the Court of Appeals'  
decision denying a writ of mandamus directed to the

Scott Circuit Court. The writ sought to require the trial judge to file Geoffrey Young's, the Appellant's, motion for sanctions, to hold a hearing on the motion, and to decide the motion without delay, even though the underlying case had already been appealed. Young contended the trial judge's order impermissibly interferes with the ministerial duties of the Scott Circuit Court Clerk. Amy McGrath (McGrath), the Real Party in Interest, filed a response to Young's appeal arguing the Court of Appeals correctly applied the law regarding a petition for a writ of mandamus.

For the following reasons, we affirm the Court of Appeals.

## **I. FACTUAL AND PROCEDURAL HISTORY**

On September 28, 2020, Young filed a petition in the Scott Circuit Court challenging the ballot

status of McGrath in the 2020 election for the United States Senate in Kentucky. In his petition, Young requested an evidentiary hearing, declaratory judgment, and injunctive relief. He argued McGrath was not a bona fide candidate under KRS [footnote 1: Kentucky Revised Statutes.] 118.176. He also claimed McGrath acted unlawfully in gaining the Democratic Party nomination in violation of KRS 118.105. Accordingly, Young requested McGrath be struck from the ballot and any votes for McGrath in the November 2020 election not count.

McGrath immediately moved to dismiss Young's action. She claimed: (1) the doctrine of *res judicata* barred Young's allegations; (2) the statute of limitations applied; (3) Young failed to state a claim upon which relief may be granted; and (4) the court lacked jurisdiction over the action. McGrath also

moved for sanctions against Young under CR  
[footnote 2: Kentucky Rules of Civil Procedure] 11.

Young then attempted to file a response to McGrath's motion to dismiss along with his own request for CR 11 sanctions against McGrath. He noticed a hearing for October 20, 21, or 22 of 2020. The circuit court refused to file Young's pleading, returning it to him with a note. The note advised him to notice the motion for November 5, 2020. Young refiled his motion, noticing it for November 5, 2020.

On December 17, 2020, the circuit court entered two orders. First, the court denied Young's motion challenging the ballot status of McGrath and dismissed Young's petition. Second, the court granted McGrath's motion for CR 11 sanctions, but denied Young's motion for CR 11 sanctions. The circuit court ordered Young pay \$25,550.93.



Subsequently, Young filed motions to vacate the December orders. He requested a new trial and CR 11 sanctions against McGrath. On February 18, 2021, the circuit court denied both of Young's motions. Almost immediately, Young appealed the circuit court's February 18, 2021 order.

On April 26, 2021, Young attempted to file another motion for CR 11 sanctions against McGrath. The circuit court returned Young's motion, claiming the court no longer had jurisdiction on the matter because the underlying case was on appeal. Young, nevertheless, attempted to argue his motion for CR 11 sanctions at a motion hour on May 6, 2021. Young claims the circuit court would not hear his motion and refused to issue a written order for him to appeal.

On May 12, 2021, Young filed a petition for a

writ of mandamus, requesting the Court of Appeals order the circuit judge to file Young's April 26, 2021 motion.

[footnote 3: Young's petition in the lower courts was styled as a "Petition for Relief Against Abuses of Discretion." Because Young, pro se, requested the Court of Appeals make the circuit court take certain actions, the Court of Appeals considered his petition a writ of mandamus.]

He also requested for the court to order the circuit judge not to interfere with the ministerial duties of the circuit clerk. McGrath filed a response.

On June 25, 2021, the Court of Appeals issued an order on Young's underlying appeal. The Court of Appeals also issued an order denying Young's petition for a writ of mandamus and denying McGrath's request for damages. The court concluded that when Young appealed the February 18, 2021

order the circuit court lost jurisdiction. As a result, Young's petition failed to meet the requirements necessary for granting a writ. Young appealed as a matter of right to this Court. [footnote 4: McGrath did not appeal the Court of Appeals' denial of damages against Young.]

## II. ANALYSIS

The issuance of a writ of mandamus or prohibition is an extraordinary remedy. *Allstate Prop. & Cas. Ins. Co. v. Kleinfeld*, 568 S.W.3d 327, 331 (Ky. 2016). As explained in *Southern Fin. Life Ins. Co. v. Combs*:

[C]ourts are decidedly loath to grant writs as a specter of injustice always hovers over writ proceedings. This specter is ever present because writ cases necessitate an abbreviated record which magnifies the chance of incorrect rulings that would prematurely and improperly cut off the rights of litigants.

413 S.W.3d 921, 925 (Ky. 2013) (internal citations and quotations omitted). Thus, this Court has a two-class analysis in writ cases.

Writ cases are divided into two classes, which are distinguished by whether the lower court allegedly is (1) acting without jurisdiction (which includes beyond its jurisdiction), or (2) acting erroneously within its jurisdiction... When a writ is being sought under the second class of cases, a writ may be granted upon a showing... that the lower court is acting or is about to act erroneously, although within its jurisdiction, and there exists no adequate remedy by appeal or otherwise and great injustice and irreparable injury will result if the petition is not granted. There is, however, a narrow exception to the irreparable harm requirement. Under this exception, certain special cases will allow a writ to be issued in the absence of a showing of specific great and irreparable injury... provided a substantial miscarriage of justice will result if the lower court is proceeding erroneously, and correction of the error is necessary and appropriate in the interest of orderly judicial administration.

*Id.* at 926.

In this case, we must consider whether the requirements of the second class of writs have been met. The first-class is irrelevant as the Scott Circuit Court was the correct venue to challenge McGrath's bona fides as a candidate for office. KRS 118.176(2). Moreover, the impetus behind Young's seeking a writ of mandamus is to compel the circuit court to hear and rule upon his motion for sanctions, an action unquestionably conceding the circuit court's jurisdiction. Since Young concedes the jurisdiction of the Scott Circuit Court, he must show that (1) the lower court is acting or is about to act erroneously; (2) he has no adequate remedy by appeal; and (3) he would suffer great and irreparable injury if denied relief. Alternatively, Young, lacking great and irreparable injury, must prove a great miscarriage of

justice will be perpetuated if the writ of prohibition is not granted.

“[U]ltimately, the decision whether or not to issue a writ of prohibition is a question of judicial discretion. So review of a court's decision to issue a writ is conducted under the abuse-of-discretion standard. That is, we will not reverse the lower court's ruling absent a finding that the determination was arbitrary, unfair, or unsupported by sound legal principles.” *Appalachian Racing, LLC v. Commonwealth*, 505 S.W.3d 1, 3 (Ky. 2016) (internal citations and quotations omitted). In this case, Young fails to meet the requirements necessary to be granted a writ of the second class, as he did not lack an adequate remedy by appeal.

“No adequate remedy by appeal' means that any injury to the Appellants 'could not thereafter be

rectified in a subsequent proceeding of the case.”

*Independent Ord. Of Foresters v. Chauvin*, 175

S.W.3d 610, 614-15 (Ky. 2005) (internal quotation

and citation omitted). “Lack of an adequate remedy

by appeal is an absolute prerequisite to the issuance

of a writ under this second category.” *Id.* at 615. It is

“the one requirement that is set in stone and

unavoidable.” *Gilbert v. McDonald-Burkman*, 320

S.W.3d 79, 85 (Ky. 2010). Young had already

appealed the underlying action at the time he filed

his petition for a writ of mandamus. It was by his

own actions that the circuit court lost jurisdiction in

the case and subsequently denied his April 26 CT 11

motion. It must be noted had the circuit court heard

and acted upon that motion, McGrath would have

had grounds for petitioning for a writ of mandamus

herself, since the circuit court would have been

acting outside of its jurisdiction. Moreover, Young will experience no great injustice or irreparable harm as a result of the writ being denied since the underlying case has already been declared moot and dismissed as a result of McGrath losing the senatorial election in 2020.

### III. CONCLUSION

In this case, Young failed to show a lack of adequate remedy on appeal of a great injustice and irreparable harm would occur by denial of the writ. Accordingly, the Court of Appeals is affirmed.

All sitting. All concur.

COUNSEL FOR APPELLANT:

Geoffrey M. Young, pro se

APPELLEE:

Hon. Jeremy Mattox



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